

**THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

	X	
	:	Chapter 9
In re:	:	Case No. 13-53846
CITY OF DETROIT, MICHIGAN,	:	Hon. Steven W. Rhodes
Debtor.	:	
	:	
	:	

PETITIONERS ROBERT DAVIS' AND DESMOND M. WHITE'S MOTION FOR AN *EX PARTE* ORDER TO REDUCE THE TIME FOR A PARTY TO TAKE ANY ACTION OR FILE ANY OBJECTIONS TO PETITIONER ROBERT DAVIS' AND DESMOND MICHELLE WHITE'S EMERGENCY MOTION FOR CLARIFICATION OF THE COURT'S JULY 25, 2013 STAY ORDER

PETITIONERS, Robert Davis and Desmond M. White, by and through their attorney, Andrew A. Paterson, submit this, their Motion for an *Ex Parte* Order Reducing the Time for A Party To Take Any Action or File Any Objections to Petitioners Robert Davis' and Desmond M. White's Emergency Motion for Clarification of the Court's July 25, 2013 Stay Order, and state as follows:

1. Pursuant to LBR 9006-1(b), Petitioners Robert Davis and Desmond M. White (collectively "**Petitioners**") respectfully request the Court to enter an *ex parte* order reducing the time for a party to take any action or file any objections to Petitioners' Emergency Motion for Clarification of the Court's July 25, 2013 Stay Order ("**Emergency Motion**").
2. Currently, Petitioners have an election-related matter pending in Wayne County Circuit Court against the Detroit City Clerk, Detroit Election Commission,

ACCUFORM Printing and the Wayne County Board of Canvassers. It is Wayne County Circuit Court Case No. 13-013071-AW, and it is before the Honorable Judge Patricia Fresard (“**Judge Fresard**”) (“*Petitioners’ Election Case*”). It raises issues that can impact the upcoming November 5, 2013 General Election. It is undisputed between counsel for the parties in that case that this Court’s July 25, 2013 Stay Order is not applicable to ACCUFORM Printing or to the Wayne County Board of Canvassers, neither of whom are officers or representatives of the Debtor as defined in this Court’s July 25, 2013 Stay Order.

3. Further, this Court should know that in another recent election-related lawsuit in Wayne County Circuit Court that also can impact the upcoming November 5, 2013 General Election, being *Wilcoxon, et al. v Detroit City Clerk, et al.*, Wayne County Circuit Court Case No. 13-012502-AW (“*Wilcoxon Election Case*”), (also before Judge Fresard), Assistant Corporation Counsel for the City of Detroit agreed on the record during an emergency hearing held September 25, 2013, that this Court’s July 25, 2013 Stay Order *did not apply* to that election-related matter after counsel for the plaintiff agreed not to seek attorney fees and costs against the Debtor. Counsel for the Petitioners represents the plaintiff in the *Wilcoxon Election Case*.
4. In accordance with LBR 9006-1(b), on October 8, 2013, Petitioners’ counsel and Eric Graabo, Assistant Corporation counsel for the City of Detroit, agreed and stipulated on the record, before Judge Fresard, that an immediate and emergency hearing is needed to be held by this Court on **Thursday, October 10, 2013** to determine whether Petitioners’ Election Case can proceed against the Detroit City Clerk and Detroit Election Commission, considering that Judge Fresard may decide to order,

- inter alia*, that the City Clerk and Detroit Election Commission need to reprint the ballots for the upcoming November 5, 2013 General Election. Additionally, counsel for both parties further agreed and stipulated that any pleadings necessary for said emergency hearing can be filed by either party on **Thursday, October 10, 2013**.
5. Counsel for both sides agree that it is imperative and urgent for the Court to address the merits of Petitioners' Emergency Motion for Clarification of the Court's July 25, 2013 Stay Order as it relates to Petitioners' Election Case, because the merits of Petitioners' Election Case raises CRITICAL issues with respect to the legality of the printing of the ballots that are currently being used, and distributed to electors for the upcoming November 5, 2013 General Election.
 6. There is thus an immediate need for this Court to enable Judge Fresard to adjudicate the merits of Petitioners' Election Case on an expedited basis. The allegations that require adjudication include that the Defendant City Clerk has unlawfully authorized, processed and distributed, facially invalid ballots, to absentee voters, including Petitioner Desmond M. White, for the upcoming November 5, 2013 General Election. These ballots do not comply with the mandatory prescribed format as set forth in the various provisions of Michigan Election Law and thus pursuant to MCL 168.560, as amended, **NONE** of the ballots, as currently printed, **"shall be used, cast, or counted."**
 7. The Michigan Supreme Court has recognized the importance of election-related cases and has so required that election-related cases are heard in an expedited manner. See *Scott v Director of Elections*, 490 Mich 888, 889; 804 NW2d 119 (2011).

8. Additionally, MCR 7.213(C)(4) requires the Michigan Court of Appeals to expedite appeals from all cases involving election-related issues.
9. Accordingly, counsel for both sides have stipulated and agreed to the necessity that a hearing needs to be held by this Court on **Thursday, October 10, 2013**, with pleadings due the same day, to address and clarify this Court's July 25, 2013 Stay Order inapplicability to election-related matters against the Detroit City Clerk and Detroit Election Commission.
10. Accordingly, Petitioners respectfully request that the Court reduce the time for a party to take action or object to Petitioners' Emergency Motion and require that an emergency hearing and all pleadings are filed with respect thereto on or before **Thursday, October 10, 2013**, as stipulated and agreed to by counsel for the Petitioners and Eric Graabo, Assistant Corporation Counsel for the City of Detroit.

CONCLUSION/PRAYER FOR RELIEF

Petitioners, Robert Davis and Desmond M. White, pray that the Court enters an *ex parte* order reducing the time for a party to take action or object to Petitioners' Emergency Motion and require that an emergency hearing and all pleadings are filed with respect thereto on or before **Thursday, October 10, 2013**, as stipulated and agreed to by counsel for the Petitioners and Eric Graabo, Assistant Corporation Counsel for the City of Detroit.

Respectfully submitted,

/s/ Andrew A. Paterson

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DATED; October 8, 2013